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UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA

15 || In Re

Case No. 4:20-cv-05381-HSG (Lead Case)

16 || PG&E CORPORATION

(Reference withdrawn from Bankruptcy Case No. 19-30088, Adv. Proc. No. 20-03019 and Adv. Proc. No. 19-03008)

V.

AECOM TECHNICAL SERVICES, INC.

(Consolidated with Case No. 3:20-cv-08463-EMC)

## **STIPULATED PROTECTIVE ORDER**

This Stipulated Protective Order (“Protective Order”) is made, entered into, and effective as of the date of entry by the Court (the “Effective Date”) by and between JH Kelly, LLC (“Kelly”), AECOM Technical Services, Inc. (“AECOM”), Pacific Gas and Electric Company (“PG&E”), and Ed Staub & Sons Petroleum, Inc. (“Staub”) (individually referred to as a “Party” and collectively “the Parties” for purposes of this Protective Order). The Parties have requested or will request the production of documents or information that at least one Party considers to be

1 or to contain confidential information, and that are subject to protection under the California Code  
 2 of Civil Procedure, as applicable, Federal Rule of Civil Procedure 26(c), and/or common law.

3       The Parties agree that good cause exists to protect the confidential nature of the  
 4 information contained in documents, responses to requests for admission, responses to  
 5 interrogatories, or deposition testimony. This action will likely involve discovery of the Parties'  
 6 confidential corporate policies, operations, business plans, commercial information, proprietary  
 7 information, financial information, and trade secrets. The dissemination of such confidential  
 8 information to the public and/or the Parties' competitors would potentially seriously harm the  
 9 producing or designating Party. The Parties agree that the entry of this Protective Order is  
 10 warranted to protect against disclosure of such documents and information.

11       Based upon the above stipulation of the Parties, and the Court being duly advised, IT IS  
 12 HEREBY ORDERED as follows:

13       1.       All documents, testimony, and other materials produced by the Parties in this case  
 14 and labeled "Confidential" or "Highly Confidential-Attorney's Eyes Only" (collectively  
 15 "Confidential Information") shall be used only in this litigation.

16       2.       Use of any information or documents labeled "Confidential" or "Highly  
 17 Confidential-Attorney's Eyes Only" and subject to this Protective Order, including all  
 18 information derived therefrom, shall be restricted solely to the litigation of this case and shall not  
 19 be used by any Party for any business, commercial, or competitive purpose. This Protective  
 20 Order, however, does not restrict the disclosure or use of any information or documents lawfully  
 21 obtained by the receiving Party through means or sources outside of this litigation. Should a  
 22 dispute arise as to any specific information or document, the burden of proof shall be on the Party  
 23 claiming that such information or document was lawfully obtained through means and sources  
 24 outside of this litigation.

25       3.       The Parties, and third parties subpoenaed by one of the Parties, may designate as  
 26 "Confidential" documents, testimony, transcripts, written responses, or other materials produced  
 27 in this case if they contain information that the designating Party has a good faith basis for  
 28 asserting its confidentiality under the applicable legal standards. The designating Party shall

1 designate each page of the document with a stamp identifying it as “Confidential,” if practical to  
 2 do so.

3       4. The Parties, and third parties subpoenaed by one of the Parties, may designate as  
 4 “Highly Confidential-Attorney’s Eyes Only” documents, testimony, written responses, or other  
 5 materials produced in this case if they contain information that the designating Party has a good  
 6 faith basis for asserting its confidentiality under the applicable legal standards, and has a  
 7 reasonable belief that disclosure to persons other than those identified in paragraph 12 below, or  
 8 authorized by agreement of the Parties, is substantially likely to cause injury to the designating  
 9 Party. The designating Party shall designate each page of the document with a stamp identifying  
 10 it as “Highly Confidential-Attorney’s Eyes Only,” if practical to do so.

11       5. If Confidential Information is lodged in Court or used during depositions or during  
 12 the course of any other hearing, it shall not lose its “Confidential” status through such use, and  
 13 counsel for the Parties shall take all steps reasonably required to protect its confidentiality during  
 14 such use and regarding any subsequent transcription of the proceeding.

15       6. Where any Confidential Information is included in any motion or other proceeding  
 16 governed by the Federal Rules of Civil Procedure, the Federal Rules of Bankruptcy Procedure,  
 17 and/or the local rules of the Court, the Party shall follow those rules.

18       7. [Intentionally deleted.]

19       8. Nothing in this Protective Order shall be construed to preclude a Party from  
 20 asserting in good faith that certain Confidential Information requires additional protection. The  
 21 Parties shall meet and confer to agree upon the terms of such additional protection.

22       9. Any Party (or other person subject to the terms of this Protective Order) may ask  
 23 the Court, after appropriate notice to the other Parties, to modify or grant relief from any  
 24 provision of this Protective Order.

25       10. Within thirty (30) days after receipt of the final transcript of the deposition of any  
 26 Party or witness in this case, a Party or the witness may designate as “Confidential” or “Highly  
 27 Confidential-Attorney’s Eyes Only” any portion of the transcript that the Party or witness  
 28 contends discloses Confidential Information. If a transcript containing any such material is filed

1 with the Court, the filing Party shall follow the Federal Rules of Civil Procedure, the Federal  
 2 Rules of Bankruptcy Procedure, and/or the local rules of the Court, as applicable. Unless  
 3 otherwise agreed, all deposition transcripts shall be treated as “Confidential” until the expiration  
 4 of the 30-day period.

5       11. Use of any information, documents, or portions of documents marked  
 6 “Confidential,” including all information derived therefrom, shall be restricted solely to the  
 7 following persons, who agree to be bound by the terms of this Protective Order, unless additional  
 8 persons are stipulated by counsel or authorized by the Court:

- 9           a. Outside counsel of record for the Parties, and outside counsel’s administrative  
               staff, paralegals, clerical and secretarial staff, and subordinate law clerks to whom  
               it is reasonable that the material be shown for purposes of this litigation;
- 10          b. In-house counsel for the Parties, and each in-house counsel’s administrative staff,  
               paralegals, clerical and secretarial staff, and subordinate law clerks to whom it is  
               reasonable that the material be shown for purposes of this litigation;
- 11          c. Every employee, director, officer, principal, agent, or manager of the Parties, but  
               only to the extent necessary to further the interest of the Parties in this litigation;
- 12          d. Independent consultants or expert witnesses (including partners, associates and  
               employees of the firm which employs such consultant or expert) retained by a  
               Party or its attorneys for purposes of this litigation, but only to the extent necessary  
               to further the interest of the Parties in this litigation;
- 13          e. The Court;
- 14          f. The authors and the original recipients of the documents so long as the  
               author(s)/original recipient(s) have signed the agreement attached as Exhibit A and  
               are not given possession of materials marked “Confidential”;
- 15          g. Any reporter or videographer or similar technician at a deposition or Court  
               proceeding;
- 16          h. Employees of copy services, microfilming or database services, trial support firms,  
               translators, and/or other third party vendors who are engaged by the Parties during  
               the litigation of this action for organizing, filing, copying, coding, converting,  
               sorting, or retrieving data or designing programs for handling data connected with  
               this litigation, including the performance of such duties in relation to a  
               computerized litigation support system; and
- 17          i. Any other person with the prior written consent of the designating Party.

1           12. Use of any information, documents, or portions of documents marked "Highly  
 2 Confidential – Attorney's Eyes Only" including all information derived therefrom, shall be  
 3 restricted solely to the following persons, who agree to be bound by the terms of this Protective  
 4 Order, unless additional persons are stipulated by counsel or authorized by the Court:

- 5           a. Outside counsel of record for the Parties, and outside counsel's administrative  
               staff, paralegals, clerical and secretarial staff, and subordinate law clerks to whom  
               it is reasonable that the material be shown for purposes of this litigation;
- 6           b. In-house counsel for the Parties;
- 7           c. Independent consultants or expert witnesses (including partners, associates and  
               employees of the firm which employs such consultant or expert) retained by a  
               Party or its attorneys for purposes of this litigation, but only to the extent necessary  
               to further the interest of the Parties in this litigation;
- 8           d. The Court;
- 9           e. The authors and the original recipients of the documents so long as the  
               author(s)/original recipient(s) have signed the agreement attached as Exhibit A and  
               are not given possession of materials marked "Highly Confidential – Attorney's  
               Eyes Only;"
- 10          f. Any reporter or videographer or similar technician at a deposition or Court  
               proceeding;
- 11          g. Employees of copy services, microfilming or database services, trial support firms,  
               translators, and/or other third party vendors who are engaged by the Parties during  
               the litigation of this action for organizing, filing, copying, coding, converting,  
               sorting, or retrieving data or designing programs for handling data connected with  
               this litigation, including the performance of such duties in relation to a  
               computerized litigation support system; and
- 12          h. Any other person with the prior written consent of the designating Party.

13          13. Prior to being shown any documents produced by another Party marked  
 14 "Confidential" or "Highly Confidential – Attorney's Eyes Only," any person listed under  
 15 paragraphs 11(d), 11(f), or 12(e), shall agree to be bound by the terms of this Order by signing the  
 16 agreement attached as Exhibit A.

1           14. Whenever information designated as “Confidential” or “Highly Confidential –  
 2 Attorney’s Eyes Only” pursuant to this Protective Order is to be discussed by a Party or disclosed  
 3 in a deposition, hearing, or pretrial proceeding, the designating Party may, with prior or  
 4 contemporaneous permission of the Court, exclude from the room any person, other than persons  
 5 designated in paragraph 11 or paragraph 12, as appropriate, for that portion of the deposition,  
 6 hearing, or pretrial proceeding. Upon request of any Party, with permission of the Court, the  
 7 portions of the transcript of any such proceeding, along with associated exhibits, concerning  
 8 information or documents subject to this Protective Order shall be sealed and kept confidential  
 9 pursuant to the provisions of this Protective Order.

10           15. The Parties shall meet and confer regarding the procedures for use of Confidential  
 11 Information at trial and shall move the Court for entry of an appropriate order.

12           16. Each Party reserves the right to dispute the confidential status claimed by any  
 13 other Party or subpoenaed party in accordance with this Protective Order. If a Party believes that  
 14 any documents or materials have been inappropriately designated by another Party or subpoenaed  
 15 party, that Party shall confer with counsel for the designating Party. As part of that conferral, the  
 16 designating Party must assess whether redaction is a viable alternative to complete non-  
 17 disclosure. If the Parties are unable to resolve the matter informally, a Party may file an  
 18 appropriate motion before the Court requesting that the Court determine whether the Protective  
 19 Order covers the document in dispute, and, the designating Party will, if necessary, present  
 20 unredacted copies of the same materials to the Court for *in camera* review. Regardless of which  
 21 Party files the motion, the Party seeking to protect a document from disclosure, or from a change  
 22 in designation from “Highly Confidential – Attorney’s Eyes Only” to “Confidential”, bears the  
 23 burden of establishing good cause for why the document should not be disclosed or why the  
 24 designation should not be changed. A Party who disagrees with another Party’s designation must  
 25 nevertheless abide by that designation until the matter is resolved by agreement of the Parties or  
 26 by order of the Court.

27           17. Nothing in this Protective Order shall affect the admissibility into evidence of  
 28 Confidential Information, or abridge the rights of any person to seek judicial review or to pursue

1 other appropriate judicial action with respect to any ruling made by the Court concerning the  
 2 issue of the status of Confidential Information.

3       18. The inadvertent failure to designate a document, testimony, or other material as  
 4 “Confidential” or “Highly Confidential – Attorney’s Eyes Only” prior to disclosure shall not  
 5 operate as a waiver of the designating Party’s right to later designate the document, testimony, or  
 6 other material as “Confidential” or “Highly Confidential – Attorney’s Eyes Only.” The receiving  
 7 Party or its counsel shall not disclose such documents or materials if that Party or counsel knows  
 8 or reasonably should know that a claim of confidentiality would be made by the designating  
 9 Party. Promptly after receiving notice from the designating Party of a claim of confidentiality,  
 10 the receiving Party or its counsel shall inform the designating Party of all pertinent facts relating  
 11 to the prior disclosure of the newly-designated documents or materials, and shall make reasonable  
 12 efforts to retrieve such documents and materials and to prevent further disclosure.

13       19. Designation by either Party of information or documents as “Confidential,”  
 14 “Highly Confidential – Attorney’s Eyes Only,” or failure to so designate, will not constitute an  
 15 admission that information or documents are or are not confidential or trade secrets. Neither  
 16 Party may introduce into evidence in any proceeding between the Parties, other than a motion to  
 17 determine whether the Protective Order covers the information or documents in dispute, the fact  
 18 that the other Party designated or failed to designate information or documents as “Confidential”  
 19 or “Highly Confidential – Attorney’s Eyes Only”.

20       20. Upon the request of the designating Party or third party, within 60 days after the  
 21 entry of a final judgment no longer subject to appeal on the merits of this case, or the execution of  
 22 any agreement between the Parties to resolve amicably and settle this case, the Parties and any  
 23 person authorized by this Protective Order to receive Confidential Information shall return to the  
 24 designating Party or third party, or destroy, all information and documents subject to this  
 25 Protective Order. Returned materials shall be delivered in sealed envelopes marked  
 26 “Confidential” to respective counsel. The Party requesting the return of materials shall pay the  
 27 reasonable costs of responding to its request. Notwithstanding the foregoing, counsel for a Party  
 28 may retain archival copies of confidential documents.

1       21. This Protective Order shall not constitute a waiver of any Party's or nonparty's  
2 right to oppose any discovery request or object to the admissibility of any document, testimony,  
3 or other information.

4       22. Nothing in this Protective Order shall prejudice any Party from seeking  
5 amendments to expand or restrict the rights of access to and use of Confidential Information, or  
6 other modifications, subject to order by the Court.

7       23. The restrictions on disclosure and use of Confidential Information shall survive the  
8 conclusion of this action and the Court shall retain jurisdiction of this action after its conclusion  
9 for the purpose of enforcing the terms of this Protective Order.

10       24. This Protective Order is in addition to, and does not limit, any nondisclosure  
11 agreement or other confidentiality agreements between the Parties.

12       **PURSUANT TO STIPULATION, IT IS SO ORDERED**

13       Dated: 2/9/2021

14         
15       HAYWOOD S. GILLIAM, JR.  
United States District Judge

1           **IT IS SO STIPULATED:**

2           DATED: February 2, 2021                   **STOEL RIVES LLP**

3

4           By: /s/ Mario R. Nicholas  
5                   ERIC A. GRASBERGER  
6                   MARIO R. NICHOLAS

7                   Attorneys for JH Kelly, LLC

8           DATED: February 2, 2021                   **TROUTMAN PEPPER HAMILTON SANDERS**  
9                   **LLP**

10           By: /s/ Luke N. Eaton  
11                   MARION T. HACK  
12                   LUKE N. EATON

13                   Attorneys for AECOM Technical Services, Inc.

14           DATED: February 2, 2021                   **RALLS GRUBER & NIECE LLP**

15

16           By: /s/ Aaron R. Gruber  
17                   AARON R. GRUBER

18                   Attorneys for Defendant Pacific Gas and Electric  
19                   Company

20           DATED: February 2, 2021                   **HARRINGTON FOXX DUBROW & CANTER,**  
21                   **LLP**

22

23           By: /s/ Henry A. Wirta, Jr.  
24                   HENRY A. WIRTA, JR.

25                   Attorneys for Ed Staub & Sons Petroleum, Inc.

1 I, Mario R. Nicholas, am the ECF user whose ID and password are being used to file this  
2 Stipulation in compliance with Civil L.R. 5-1(i)(3). I hereby attest that the concurrence of the  
3 filing of this document has been obtained from each of the other signatories indicated by a  
4 conformed signature (/s/) within this document.

5 DATED: February 2, 2021

6 /s/ Mario R. Nicholas  
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1 EXHIBIT A

2 CERTIFICATE OF AGREEMENT

3 I, \_\_\_\_\_, hereby certify that I have been given  
4 a copy of the Stipulated Protective Order in the matter of *In re PG&E Corporation v. AECOM*  
5 *Technical Services, Inc.; JH Kelly, LLC v. AECOM Technical Services, Inc.*, Case No. 4:20-cv-  
6 05381-HSG. I agree to the following limitations upon the use and disclosure of all  
7 CONFIDENTIAL information or material that I am being provided thereunder:

8 That I will not disclose or divulge any of the information or material or the content thereof  
9 to any person;

10 That any use of the information or material or the content thereof shall be restricted solely  
11 to use in connection with the litigation of this case and shall not be used outside this case for any  
12 business, commercial, competitive, or other purpose; and

13 That upon request, I will return the material that I have been provided, and all copies,  
14 extracts, abstracts, charts, notes, and summaries thereof, immediately to the attorney who  
15 provided the material to me.

16 I understand and recognize that violation of any of the provisions of this Certificate of  
17 Agreement may subject me to liability for violation of the Stipulated Protective Order and will  
18 potentially result in the immediate and irreparable harm of the designating Party. I further agree  
19 to submit to the jurisdiction of the United States District Court for the Northern District of  
20 California with respect to the enforcement of any obligation hereunder.

21 I declare under penalty of perjury that the foregoing is true and correct. Executed this  
22 \_\_\_\_\_ day of \_\_\_\_\_, 2021, at \_\_\_\_\_.

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## CERTIFICATE OF SERVICE

I hereby certify that I served the foregoing STIPULATED PROTECTIVE ORDER on the following named person(s) on the date indicated below by:

- mailing with postage prepaid
- hand delivery
- overnight delivery
- email
- notice of electronic filing using the CM/ECF system (if person(s) is/are registered with CM/ECF system)

to said person(s) a true copy thereof, contained in a sealed envelope, addressed to said person(s) at his or her last-known address(es) indicated below.

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agruber@rallsgruber.com  
Ralls Gruber & Niece LLP  
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San Mateo, CA 94402

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## *Attorneys for AECOM Technical Services, Inc.*

DATED: February 2, 2021.

STOEL RIVES LLP

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Attorneys for Plaintiff